

1 THE HONORABLE ROBERT S. LASNIK
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

9 DELIA AIKENS, on behalf of herself and
10 other similarly situated,

11 Plaintiff,

12 vs.

13 PANATTE, LLC, LAND HOME
14 FINANCIAL SERVICES, INC., AND
MORTGAGE DEFAULT SERVICES, LLC,

15 Defendants.

16 NO. 2:17-cv-01519-RSL

17 STIPULATED [PROPOSED]
PROTECTIVE ORDER

18 1. STIPULATIONS

19 The parties hereby stipulate to and petition the court to enter the following Stipulated
20 Protective Order regarding discovery that relates to confidential, personal, business and other
21 proprietary information. The parties acknowledge that this agreement is consistent with LCR
22 26(c). It does not confer blanket protection on all disclosures or responses to discovery, the
23 protection it affords from public disclosure and use extends only to the limited information or
24 items that are entitled to confidential treatment under the applicable legal principles, and it does
not presumptively entitle parties to file confidential information under seal.

1 2. "CONFIDENTIAL" AND "ATTORNEY'S EYES ONLY" MATERIAL

2 "Confidential" and/or "Attorney's Eyes Only" material means information or tangible
3 things that qualify for protection under Federal Rule of Civil Procedure 26(c) and as described
4 above in Stipulations, including, but not limited to, the following:

5 (a) Information constituting sensitive "nonpublic personal information" within the
6 meaning of the Gramm-Leach-Bliley Act, 15 U.S.C. § 6802, *et seq.* and its
7 implementing regulations, including, but not limited to, financial, tax, banking, or
8 credit information for any person, together with personally identifiable information
9 with respect to such person, including, but not limited to, name, address, Social
10 Security number, loan number, telephone number, or place or position of work;
11 (b) Information regarding trade secrets, confidential business practices, or other
12 confidential research, development, or commercial information otherwise generally
13 unavailable to the public, including but not limited to materials related to company
14 policies, procedures, corporate governance, employee training materials, employee
15 personnel records and other non-public internal company files.

16 3. SCOPE

17 The protections conferred by this agreement cover not only material designated as
18 "Confidential" and/or "Attorney's Eyes Only" (as defined above), but also (1) any information
19 copied or extracted from material designated as "Confidential" and/or "Attorney's Eyes Only"; (2)
20 all copies, excerpts, summaries, or compilations of such material; and (3) any testimony,
21 conversations, or presentations by parties or their counsel that might reveal such material.

22 However, the protections conferred by this agreement do not cover information that is in
23 the public domain or becomes part of the public domain through trial or otherwise.

24 4. ACCESS TO AND USE OF CONFIDENTIAL MATERIAL

25 4.1 Basic Principles. A receiving party may use confidential material that is disclosed
26 or produced by another party or by a non-party in connection with this case only for prosecuting,

1 defending, or attempting to settle this litigation. Confidential and/or Attorney's Eyes Only material
2 may be disclosed only to the categories of persons and under the conditions described in this
3 agreement. Confidential material must be stored and maintained by a receiving party at a location
4 and in a secure manner that ensures that access is limited to the persons authorized under this
5 agreement.

6 4.2 Disclosure of "CONFIDENTIAL" And/Or "Attorney's Eyes Only" Information or
7 Items. Unless otherwise ordered by the court or permitted in writing by the designating party, a
8 receiving party may disclose any such material only to:

9 (a) the receiving party's counsel of record in this action, as well as employees
10 of counsel to whom it is reasonably necessary to disclose the information for this litigation;

11 (b) the officers, directors, and employees (including in-house counsel) of the
12 receiving party to whom disclosure is reasonably necessary for this litigation, unless the disclosing
13 party designates a particular document or material as for "Attorney's Eyes Only";

14 (c) experts and consultants to whom disclosure is reasonably necessary for this
15 litigation and who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

16 (d) the court, court personnel, and court reporters and their staff;

17 (e) copy or imaging services retained by counsel to assist in the duplication of
18 confidential material, provided that counsel for the party retaining the copy or imaging service
19 instructs the service not to disclose any confidential material to third parties and to immediately
20 return all originals and copies of any confidential material;

21 (f) during their depositions, witnesses in the action to whom disclosure is
22 reasonably necessary and who have signed the "Acknowledgment and Agreement to Be Bound"
23 (Exhibit A), unless otherwise agreed by the designating party or ordered by the court. Pages of
24 transcribed deposition testimony or exhibits to depositions that reveal confidential material must
25 be separately bound by the court reporter and may not be disclosed to anyone except as permitted
26 under this agreement;

(g) the author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information.

4.3 Filing Confidential Material. Before filing confidential material or discussing or referencing such material in court filings, the filing party shall confer with the designating party to determine whether the designating party will remove the confidential designation, whether the document can be redacted, or whether a motion to seal or stipulation and proposed order is warranted. Local Civil Rule 5(g) sets forth the procedures that must be followed and the standards that will be applied when a party seeks permission from the court to file material under seal.

5. DESIGNATING PROTECTED MATERIAL

5.1 Exercise of Restraint and Care in Designating Material for Protection. Each party or non-party that designates information or items for protection under this agreement must take care to limit any such designation to specific material that qualifies under the appropriate standards. The designating party must designate for protection only those parts of material, documents, items, or oral or written communications that qualify, so that other portions of the material, documents, items, or communications for which protection is not warranted are not swept unjustifiably within the ambit of this agreement.

Mass, indiscriminate, or routinized designations are prohibited. Designations that are shown to be clearly unjustified or that have been made for an improper purpose (e.g., to unnecessarily encumber or delay the case development process or to impose unnecessary expenses and burdens on other parties) expose the designating party to sanctions.

If it comes to a designating party's attention that information or items that it designated for protection do not qualify for protection, the designating party must promptly notify all other parties that it is withdrawing the mistaken designation.

5.2 Manner and Timing of Designations. Except as otherwise provided in this agreement, or as otherwise stipulated or ordered, disclosure or discovery material that qualifies for

1 protection under this agreement must be clearly so designated before or when the material is
2 disclosed or produced.

3 (a) Information in documentary form: (e.g., paper or electronic documents and
4 deposition exhibits, but excluding transcripts of depositions or other pretrial or trial proceedings),
5 the designating party must affix the word "CONFIDENTIAL" to each page that contains
6 confidential material. If only a portion or portions of the material on a page qualifies for protection,
7 the producing party also must clearly identify the protected portion(s) (e.g., by making appropriate
8 markings in the margins).

9 (b) Testimony given in deposition or in other pretrial proceedings: the parties
10 and any participating non-parties must identify on the record, during the deposition or other pretrial
11 proceeding, all protected testimony, without prejudice to their right to so designate other testimony
12 after reviewing the transcript. Any party or non-party may, within fifteen days after receiving the
13 transcript of the deposition or other pretrial proceeding, designate portions of the transcript, or
14 exhibits thereto, as confidential. If a party or non-party desires to protect confidential information
15 at trial, the issue should be addressed during the pre-trial conference.

16 (c) Other tangible items: the producing party must affix in a prominent place
17 on the exterior of the container or containers in which the information or item is stored the word
18 "CONFIDENTIAL." If only a portion or portions of the information or item warrant protection,
19 the producing party, to the extent practicable, shall identify the protected portion(s).

20 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to
21 designate qualified information or items does not, standing alone, waive the designating party's
22 right to secure protection under this agreement for such material. Upon timely correction of a
23 designation, the receiving party must make reasonable efforts to ensure that the material is treated
24 in accordance with the provisions of this agreement.

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1 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

2 6.1 Timing of Challenges. Any party or non-party may challenge a designation of
3 confidentiality at any time. Unless a prompt challenge to a designating party's confidentiality
4 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic
5 burdens, or a significant disruption or delay of the litigation, a party does not waive its right to
6 challenge a confidentiality designation by electing not to mount a challenge promptly after the
7 original designation is disclosed.

8 6.2 Meet and Confer. The parties must make every attempt to resolve any dispute
9 regarding confidential designations without court involvement. Any motion regarding confidential
10 designations or for a protective order must include a certification, in the motion or in a declaration
11 or affidavit, that the movant has engaged in a good faith meet and confer conference with other
12 affected parties in an effort to resolve the dispute without court action. The certification must list
13 the date, manner, and participants to the conference. A good faith effort to confer requires a face-
14 to-face meeting or a telephone conference.

15 6.3 Judicial Intervention. If the parties cannot resolve a challenge without court
16 intervention, the designating party may file and serve a motion to retain confidentiality under Local
17 Civil Rule 7 (and in compliance with Local Civil Rule 5(g), if applicable). The burden of
18 persuasion in any such motion shall be on the designating party. Frivolous challenges, and those
19 made for an improper purpose (e.g., to harass or impose unnecessary expenses and burdens on
20 other parties) may expose the challenging party to sanctions. All parties shall continue to maintain
21 the material in question as confidential until the court rules on the challenge.

22 7. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER
23 LITIGATION

24 If a party is served with a subpoena or a court order issued in other litigation that compels
25 disclosure of any information or items designated in this action as "CONFIDENTIAL," that party
26 must:

(a) promptly notify the designating party in writing and include a copy of the subpoena or court order;

(b) promptly notify in writing the party who caused the subpoena or order to issue in the other litigation that some or all of the material covered by the subpoena or order is subject to this agreement. Such notification shall include a copy of this agreement; and

(c) cooperate with respect to all reasonable procedures sought to be pursued by the designating party whose confidential material may be affected.

8. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a receiving party learns that, by inadvertence or otherwise, it has disclosed confidential material to any person or in any circumstance not authorized under this agreement, the receiving party must immediately (a) notify in writing the designating party of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the protected material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this agreement, and (d) request that such person or persons execute the "Acknowledgment and Agreement to Be Bound" that is attached hereto as Exhibit A.

9. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED MATERIAL

When a producing party gives notice to receiving parties that certain inadvertently produced material is subject to a claim of privilege or other protection, the obligations of the receiving parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure may be established in an e-discovery order or agreement that provides for production without prior privilege review. The parties agree to the entry of a non-waiver order under Fed. R. Evid. 502(d) as set forth herein.

10. NON TERMINATION AND RETURN OF DOCUMENTS

Within 30 days after the termination of this action, including all appeals, each receiving party must return all confidential material to the producing party, including all copies, extracts and

1 summaries thereof. This includes all material marked "Confidential" and "Attorney's Eyes Only."
2 Alternatively, the parties may agree upon appropriate methods of destruction.

3 Notwithstanding this provision, counsel are entitled to retain one archival copy of all
4 documents filed with the court, trial, deposition, and hearing transcripts, correspondence,
5 deposition and trial exhibits, expert reports, attorney work product, and consultant and expert work
6 product, even if such materials contain confidential material.

7 In the event additional parties become parties to this action, they shall not have access to
8 material marked "Confidential" or "Attorney's Eyes Only" until, by their counsel, they have
9 executed and filed with the Court their agreement to be fully bound by this Order.

10 The confidentiality obligations imposed by this agreement shall remain in effect until a
11 designating party agrees otherwise in writing or a court orders otherwise.

12 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD this 30th day of April,
13 2018.

14 DC Law Group NW, LLC CALFO EAKES & OSTROVSKY PLLC

15 By: *s/ Matthew J. Cunane*

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26 | Attorneys for Plaintiff

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1 PURSUANT TO STIPULATION, IT IS SO ORDERED.
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3 IT IS FURTHER ORDERED that pursuant to Fed. R. Evid. 502(d), the production of
4 any documents in this proceeding shall not, for the purposes of this proceeding or any other
5 proceeding in any other court, constitute a waiver by the producing party of any privilege
6 applicable to those documents, including the attorney-client privilege, attorney work-product
protection, or any other privilege or protection recognized by law.

7 DATED: May 10, 2018



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9 HONORABLE ROBERT S. LASNIK
10 UNITED STATE DISTRICT COURT JUDGE
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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of _____ [print or type full address], declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Western District of Washington on [date] in the case of _____ **[insert formal name of the case and the number and initials assigned to it by the court]**. I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Western District of Washington for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action.

Date:

City and State where sworn and signed: _____

Printed name:

Signature: